



Control Number: 51415



Item Number: 497

Addendum StartPage: 0

SOAH DOCKET NO. 473-21-0538
DOCKET NO. 51415

2021 MAY 18 PM 1:24

APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE
ELECTRIC POWER COMPANY FOR § OF
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

**SOUTHWESTERN ELECTRIC POWER COMPANY'S OBJECTIONS TO
SIERRA CLUB'S EIGHTH SET OF REQUESTS FOR INFORMATION**

Southwestern Electric Power Company (SWEPCO) objects to Sierra Club's Eighth Set of Requests for Information (RFIs), Question Nos. 8.1 and 8.2, because these requests do not constitute discovery on SWEPCO's rebuttal case but instead should have been filed and served before the close of discovery on SWEPCO's direct case pursuant to the procedural order established in this case.

I. NEGOTIATIONS

SWEPCO received Sierra Club's Eighth Set of RFIs on May 12, 2021. Counsel for SWEPCO and Sierra Club have attempted to negotiate these objections diligently and in good faith. The negotiations were unsuccessful. In accordance with SOAH Order No. 2, these objections are timely filed.

II. RESERVATION OF RIGHTS

Based on diligent inquiry, SWEPCO believes that all necessary objections have been raised in this pleading. However, SWEPCO does not waive its right, if documents are subsequently found that are responsive to these requests, to claim that such documents are privileged if such an objection is determined to be appropriate.

497

III. OBJECTIONS

Requests for Information

- 8.1 Refer to the Rebuttal Testimony of Monte A. McMahon, Section III, responding to the testimony of CARD witness Scott Norwood's proposed adjustment for generation O&M.
- a. In Docket 40443 when SWEPCO proposed to reduce the remaining useful life of Dolet Hills from 2046 to 2026, did the company re-evaluate the level of O&M spending for the plant? If not, why not. If yes, produce documents reflect such reevaluation, and state the change in level of O&M spending.
 - b. When SWEPCO proposed to reduce the remaining useful life of Dolet Hills from 2046 to 2026, did the company re-evaluate the level of capital spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of capital spending.
 - c. When SWEPCO decided to advance the planned retirement date of Dolet Hills from 2026 to 2021, did the company re-evaluate the level of capital spending for the plant? If not why not. If yes, produce documents reflect such re-evaluation, and state the change in level of capital spending.
 - d. When SWEPCO decided to advance the planned retirement date of Dolet Hills from 2026 to 2021, did the company re-evaluate the level of O&M spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of O&M spending.
 - e. On or around November 2020, when the retirement date for Pirkey was advanced from 2045 to 2023, did the company re-evaluate the level of capital spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of capital spending.
 - f. On or around November 2020, when the retirement date for Pirkey was advanced from 2045 to 2023, did the company re-evaluate the level of O&M spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of O&M spending.
 - g. Is it Mr. McMahon's view that a retirement decision for a generating unit should have no impact on the Company's O&M and capital spending at that unit up to the date of retirement? Please explain.
- 8.2 Refer to the Rebuttal Testimony of Michael A Baird, pages 18-21, responding to the testimony of CARD witness Scott Norwood's proposed adjustment for generation O&M.
- a. in Docket 40443, when SWEPCO proposed to reduce the remaining useful life of Dolet Hills from 2046 to 2026, did the company re-evaluate the level of O&M spending for the

plant? If not, why not. If yes, produce documents reflect such reevaluation, and state the change in level of O&M spending.

b. When SWEPCO proposed to reduce the remaining useful life of Dolet Hills from 2046 to 2026, did the company re-evaluate the level of capital spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of capital spending.

c. When SWEPCO decided to advance the planned retirement date of Dolet Hills from 2026 to 2021, did the company re-evaluate the level of capital spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of capital spending.

d. When SWEPCO decided to advance the planned retirement date of Dolet Hills from 2026 to 2021, did the company re-evaluate the level of O&M spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of O&M spending.

e. On or around November 2020, when the retirement date for Pirkey was advanced from 2045 to 2023, did the company re-evaluate the level of capital spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of capital spending.

f. On or around November 2020, when the retirement date for Pirkey was advanced from 2045 to 2023, did the company re-evaluate the level of O&M spending for the plant? If not, why not. If yes, produce documents reflect such re-evaluation, and state the change in level of O&M spending.

g. Is it Mr. Baird's view that a retirement decision for a generating unit should have no impact on the Company's O&M and capital spending at that unit up to the date of retirement? Please explain.

Objection

SWEPCO objects to these two requests on the grounds that they violate the procedural schedule and the established parameters for conducting discovery as agreed to by the parties and adopted by the ALJs in this case.¹ In substance, these two requests bear no relationship to the rebuttal testimonies they purportedly concern and do not actually constitute discovery on

¹ SOAH Order No. 2 (Nov. 20, 2021).

SWEPCO's rebuttal case. The RFIs are directed at information that should have been requested during the discovery period for SWEPCO's direct case.

While Sierra Club RFIs 8-1 and 8-2 are prefaced with a reference to the rebuttal testimonies of SWEPCO witnesses Monte McMahon and Michael Baird, the requests for information that follow the preface are not related to those rebuttal testimonies. A review of the propounded questions show that the information sought by Sierra Club is not really addressed to the issues being rebutted or responded to by the rebuttal witnesses, or the contentions of the rebuttal witnesses, nor do they inquire about Mr. Norwood's proposed adjustment for O&M, despite the passing reference made to Mr. Norwood's testimony. It is telling that RFIs 8-1 and 8-2 ask for the exact same information from both Mr. McMahon (RFI 8-1) and Mr. Baird (RFI 8-2) even though their testimonies differ in both substance and perspective, with Mr. McMahon, SWEPCO's Vice President of Generation, addressing generation operational issues and Mr. Baird, AEPSC's Managing Director of Accounting Policy and Research, addressing ratemaking issues. That both witnesses, with such disparate areas of responsibility, are asked for the exact same information is an indication that the requests are not actually related to their rebuttal testimonies. Further, none of the referenced rebuttal testimony of Mr. McMahon or Mr. Baird rebuts any claim made by Sierra Club witness Devi Glick. Sierra Club RFIs 8-1 and 8-2 are not proper discovery on SWEPCO's rebuttal case. Instead, Sierra Club is asking for information that could and should have been requested in discovery on SWEPCO's direct case.

The referenced Section III of Mr. McMahon's rebuttal testimony:

- rebuts the flawed recommendation of CARD witness Scott Norwood to limit Dolet Hills O&M to two months of Test Year O&M. Section III of Mr. McMahon's rebuttal testimony explains that Mr. Norwood's recommendation is improper because the Dolet Hills plant will continue to provide service to customers throughout 2021, and

- rebuts the flawed recommendation of Mr. Norwood to further reduce O&M associated with five older gas generation units that have been retired. Section III of Mr. McMahon's rebuttal testimony explains that Mr. Norwood's calculations of his proposed O&M adjustment are flawed.

Mr. Baird's rebuttal of Mr. Norwood is equally limited in scope but addresses the ratemaking aspects of Mr. Norwood's recommendation as it relates to the Dolet Hills plant and the application of the Commission's post-test year adjustments rule. Sierra Club RFIs 8-1 and 8-2 request no information related to Mr. Norwood's recommendations or Mr. McMahon's and Mr. Baird's rebuttal of them. Instead, RFIs 8-1 and 8-2 ask for:

- information related to SWEPCO's request in Docket No. 40443 to reduce the depreciable life of the Dolet Hills plant, which was not granted by the Commission in subparts (a) and (b);
- information related to SWEPCO's recent decision to retire the Dolet Hills plant in subparts (c) and (d);
- information related to SWEPCO's recent decision to retire the Pirkey plant in subparts (e) and (f); and
- information related to SWEPCO's general approach to capital investment in generation plants in subpart (g).

These requests have no relationship to Mr. McMahon's or Mr. Baird's rebuttal of Mr. Norwood.

These requests do not constitute discovery on SWEPCO's rebuttal case.

Pursuant to the procedural schedule agreed to by the parties and adopted by the ALJs, discovery on SWEPCO's direct case ended on March 10, 2021.² Sierra Club RFIs 8-1 and 8-2 are untimely discovery on SWEPCO's direct case given that they are not related to Mr. McMahon's or Mr. Baird's rebuttal of CARD witness Mr. Norwood. Since filing its rebuttal case, SWEPCO has received 14 sets of discovery concerning that rebuttal case with only four working days afforded for response. The Commission's Procedural Rules give the ALJs the ability to protect a

² SOAH Order No. 2 at 2.

party against unreasonable or unwarranted discovery requests.³ While it is preparing for hearing and responding to discovery concerning its rebuttal case, SWEPCO should not be compelled to respond to discovery not related to its rebuttal case that could and should have been propounded during discovery on SWEPCO's direct case.

IV. CONCLUSION

For the foregoing reasons, SWEPCO respectfully requests that its objections to Sierra Club's Eighth Set of RFIs be sustained. SWEPCO further requests any other relief to which it may be justly entitled.

Respectfully submitted,

Melissa Gage
State Bar No. 24063949
Email: magage@aep.com
aepaustintx@aep.com (Service)

Leila Melhem
State Bar No. 24083492
Email: lmelhem@aep.com
aepaustintx@aep.com (Service)

400 West 15th Street, Suite 1520
Austin, Texas 78701

Telephone: (512) 481-3320

Facsimile: (512) 481-4591

**AMERICAN ELECTRIC POWER SERVICE
CORPORATION**

³ 16 TAC 22.142(a).

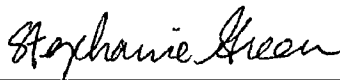
William Coe
State Bar No. 00790477
Email: wcoe@dwmrlaw.com
Kerry McGrath
State Bar No. 13652200
Email: kmcgrath@dwmrlaw.com
Patrick Pearsall
State Bar No. 24047492
Email: ppersall@dwmrlaw.com
Stephanie Green
State Bar No. 24089784
Email: sgreen@dwmrlaw.com
P.O. Box 1149
Austin, Texas 78767
Telephone: (512) 744-9300
Facsimile: (512) 744-9399
DUGGINS WREN MANN & ROMERO, LLP

By: 
Stephanie Green

**ATTORNEYS FOR SOUTHWESTERN
ELECTRIC POWER COMPANY**

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on May 18, 2021, in accordance with the Second Order Suspending Rules issued in Project No. 50664 and Order No. 1 in this matter.


Stephanie Green